



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

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OFFICE OF
ECOSYSTEMS, TRIBAL AND
PUBLIC AFFAIRS

October 22, 2012

Sophia Miller
Wallowa Mountains Office
Wallowa-Whitman National Forest
PO Box 905
Joseph, Oregon 97846

Re: U.S. Environmental Protection Agency (EPA) Comments on the final Supplemental Environmental Impact Statement (FSEIS) for the North Fork Burnt River (NFBR) Mining Plans of Operations. EPA Project Number: 01-044-AFS.

Dear Ms. Miller:

The EPA has reviewed the **NFBR Mining Plans of Operations** located in the Wallowa-Whitman National Forest in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. Section 309, independent of NEPA, specifically directs the EPA to review and comment in writing on the environmental impacts and level of disclosure associated with all major federal actions.

The SFEIS was prepared in response to litigation and the US District Court's findings on violations to the National Forest Management Act, NEPA, the Organic Administration Act, and the Clean Water Act (CWA) in the 2004 Record of Decision (ROD). The FSEIS and ROD addresses the inadequacies identified by the Court and is consistent with the following: the Organic Act, Sections 410 and 313 of the CWA, INFISH standards (buffer widths, roads, and settling/processing ponds), and allows exceptions to meeting Forest Plan open-road density guidelines.

The SFEIS identifies Alternative 4 as the agency preferred alternative as well as the environmentally preferred alternative. This alternative approves 42 Plans and contains consistent requirements that minimize the amount of disturbance in the INFISH riparian habitat conservation areas (RHCA's). It also includes site-specific Water Quality Protection Measures and USFS requirements that address water temperature, the potential discharge of mine water and sediment, potential hazardous material spills, maintenance and use of mine access roads, and reclamation.

The EPA raised concerns on the draft EIS regarding potential impacts to water quality in the project area. Specifically, our concerns included the potential for mine activities to increase sediment loads and temperature in water quality impaired streams and uncertainty regarding impacts to water resources from existing mine adits. We appreciate the responses to our comments, which provide clarifying information and respond to our concerns. However, we believe that the monitoring program outlined may not be sufficient to identify impacts or provide a framework to adjust mine management when needed.

The SFEIS states that monitoring of water quality and best management practices would be conducted "annually or more if needed." However, the SFEIS does not include details of how the timing of monitoring for water quality would be determined (i.e., during runoff event) or what would trigger an increased monitoring frequency. We believe that monitoring and adaptive management are critical in identifying issues promptly and responding to unanticipated effects efficiently.

One of the key components in the SFEIS is the Oregon Department of Environmental Quality (ODEQ) 401 certification, required prior to approving activities that have a potential discharge. Along with their certification, ODEQ may impose additional conditions such as monitoring to assure water quality standards are met. We support this measure to require the State's certification of activities prior to full approval. We also support the Plan-by-Plan evaluation to determine compliance with the anti-degradation provision and requiring additional best management practices when necessary to ensure that no degradation of water quality occurs. We recommend that the Forest Service also consider developing a detailed monitoring program that targets operations that have potential discharges (e.g., Burnt Lode and Three Cent Placer) or that affect mine adit water (e.g., Jay Gould Mine, Ladder/Rusty Bucket and Roberts Lode) during key seasonal times. This may require monitoring more than once per year. We encourage the agencies to coordinate monitoring plans and points of compliance to ensure that appropriate monitoring requirements are implemented and that adequate best management practices are employed to protect water quality.

Thank you for this opportunity to comment on the FEIS. If you have any questions or concerns please contact me at (206) 553-1601 or by electronic mail at reichgott.christine@epa.gov, or you may contact Lynne McWhorter of my staff at (208) 378-5757 or by electronic mail at mcwhorter.lynne@epa.gov.

Sincerely,



Christine B. Reichgott, Unit Manager
Environmental Review and Sediment Management Unit